THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No.4524 of 2007

06-03-2007

Between:-

M/s. Shivaadya Shakti Dall and Oil Mill,
Sadasivpet, Medak district
Rep., by its Managing Partner, Mahaveer Prasad

Petitioner

And

The Joint Collector, Sanga Reddy, Medak district
and two others.

Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No.4524 of 2007

Oral order:

The petitioner applied for a license under the provisions of the Andhra Pradesh Scheduled Commodities (Licensing and Distribution) Order, 1982 (for short 'the Control Order'). Even before the grant of license however he appears to have purchased the scheduled commodities and stored them in its premises. On 21-02-2007, the petitioner's premises was inspected and on an allegation of hoarding stocks of pulses without license, 325.50 quintals of Redgram Dall; 27.50 quintals of Bengal Gram and 9.00 quintals of Bengalgram Dall were seized. Proceedings under Section 6-A of the Essential Commodities Act, 1955 (for short 'the Act') were initiated. In purported exercise of powers under Section 6-A (2) of

the Act, the first respondent by the order dated 28-02-2007 directed interim disposal of the seized commodities (which are presently in the custody of one M/s.Nagsinghdas Somani, General Merchant & Commission Agent, Sadasivapet for safe custody after seizure of the stock from the petitioner on 21-02-2007). The reason recorded for ordering interim disposal is set out in paragraph No.4 of the first respondent's order dated 28-02-2007 and it reads: "*Since, the seized stock is of perishable in nature, the stock is hereby ordered to be disposed off by way of open auction.*"

None of the seized commodities are *per se* subject to speedy and natural decay. The learned Government Pleader for Civil Supplies submits that the reasons recorded by the first respondent in the order dated 28-02-2007 directing interim disposal of the seized stock is perverse and is a product of gross non-application of mind.

In the circumstances, the order of the first respondent dated

28-02-2007 is set aside. The respondents are however at liberty to pass a fresh order in due recognition of the conditions for exercise of the discretion, as set out in Section 6-A (2) of the Act. The respondents shall also be at liberty to consider any application by the petitioner for grant of interim release of the seized stocks. If any such application is made, the same may be considered in

accordance with law uninfluenced by any observations in this judgment. Till a fresh order is passed in accordance with law, the respondents and in particular the first respondent shall not take any steps for interim disposal of the seized stocks under the provisions of Section 6-A (2) of the Act.

The writ petition is allowed as above at the stage of admission after hearing the learned Government Pleader for Civil Supplies. No costs.

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GODA RAGHURAM, J

Dated:06-03-2007
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